

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:22-cv-00334

Darrell Jenkins,
Plaintiff,

v.

Ayodeji Odunlami et al.,
Defendants.

ORDER

Plaintiff Darrell Jenkins, an inmate of the Texas Department of Criminal Justice, proceeding pro se, filed this lawsuit complaining of alleged deprivations of his constitutional rights. The case was referred to United States Magistrate Judge John D. Love.

Plaintiff received a deposit of \$2,000.00 to his inmate trust account and had a balance of \$1,787.65 at the time he sought *in forma pauperis* status. On November 8, 2022, the magistrate judge determined that plaintiff was able to pay the full filing fee and ordered him to do so. Plaintiff received a copy of this order on November 17, 2022.


Plaintiff did not respond to the order. The magistrate judge thus issued a report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the court.

A copy of this report was mailed to plaintiff at his last known address but no objections have been filed. The Fifth Circuit has explained that when a letter is properly placed in the United States mail a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420–21 and n.9 (5th Cir. 2019).

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for

clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Plaintiff's claims are dismissed without prejudice for failure to prosecute or to obey an order of the court.

So ordered by the court on January 26, 2023.



J. CAMPBELL BARKER
United States District Judge